

CONSTITUTIONAL REFORM IN BARODA

Some Suggestions

BY

INDICUS SEMPER

(SATYA VRATA MUKERJEA)

First printed in 1924 by authority of the Baroda Govt.
Reprinted in 1945

CONTENTS

| | |
|--|----|
| Introductory | I |
| Proposed Constitution of the Legislature | 12 |
| Proposed Powers of the Assembly | 10 |
| a. Legislation | 11 |
| b. Control of the Central Government | 12 |
| The Constitution of the Pravin Mandal | 15 |
| Other powers of the Legislature | 16 |
| Probable Consequences of these Changes | 18 |
| Conclusion | 22 |

Constitutional Reform in Baroda

SOME SUGGESTIONS

BY

INDICUS SEMPER

I

Introductory

1. The most comfortable attitude towards public questions is that of non-interference. It suits indolent minds that are unable to respond to the stir of great ideas or to the urge of great situations. The average British Indian publicist suffers from this defect, particularly in respect of questions affecting the present and the future of Indian States. The problem of constitutional reform in these States baffles him. He is the child of modern ideas. All constitution-making is for him but an apt imitation of the British model so far as his training in English Constitutional law leads him to think that it is adaptable to India. His attitude towards the State or State action—what the French lawyer would call *droit administratif*—is governed by the doctrine of Parliamentary sovereignty. To his way of thinking, the Indian despot ruling through an organisation of rules and graduated power is inconceivable. It can never be, says he, that such despotism is possible without caprice, or that such despotism can be expected to be normally beneficent. And yet through a succession of rulers Mysore has shown that absolutism can be constitutional. Even in Hyderabad, where representative institutions are more rudimentary, the Nizam rules through an Executive Council and an organised Secretariat. Baroda, Travancore, Cochin, Rajkot, Bhavnagar, Dewas, Pudukota, Gondal,

Attitude of Indian publicists towards this question.

etc., are other instances of such enlightened despotism. As a result of his prejudices, the usual attitude of the British Indian towards the Indian States is that of amused indifference. The amusement may be reserved for such aberrations of Indian royalty that disfigure the courts of certain States; but the indifference is cruel and entirely undeserved. There is no justification for such an attitude. Educationally the people of the Indian States are at a low level, but the level in the greater part of these territories is not lower than in such backward areas of British India, as Central Provinces, Behar, Punjab or Assam, where Dyarchy rules and legislative assemblies are possible. At a rough guess, it is true to state that with the exception of such outlying parts as the border States of Kashmir, Manipur, Sikkim, Khairpur and the Frontier chiefships, the educational level is about the same as, if not better than, the rural areas of the United Provinces or Central Provinces. In selected States like Cochin, Travancore, Baroda or Mysore, the general level is higher than in British India. Kathiawar is more literate than the Deccan or Eastern Bengal, where political activity is not only existent but also vigorous. Indian India is far less developed, it is true, with the evidences of material civilisation than British India, but it is far more contented, and far more tenaciously patriotic than the "delocalised" mob that infests our great cities in British India. And the lack of development in the States is as much due to the apathy of the British Indian publicist or *entrepreneur*, as it is to the mediævalism of some of their rulers.

2. In these articles, the attention of British India is pointedly directed to the question of Constitutional Reform in the States, and for that purpose, the Gaekwar's dominions are selected as affording perhaps the soil most suitable for making such an experiment. Baroda, in the past, has shown the lead to other States in many directions of beneficent and enlightened activity for the benefit of the people. In Constitutional Reform, she should not let Mysore, Travancore, Cochin, Hyderabad, or little Rajkot, to outstrip her in the race. One may wonder why these States, so advanced in many respects, should have let British India steal a

Attitude of Indian
Princes based on a
misunderstanding.

march over them in the matter of responsible constitutional Government; but the fact is that there is a grave misunderstanding on this important issue. The Indian Princes, for their part, look askance at constitutional reforms because they see in British India that such reforms mean the reduction of power of the controlling authority of the State. The best of them wish to rule and not unnaturally dislike being reduced to the position of a *roi faineant*, impotent to do good but fruitful of mischief. On the other side, the British Indian attitude towards Reforms is vitiated by racialism. They wish the Viceroy or the Provincial Governors to be robbed of their power not so much because such power is unwise but because it is Englishmen who exercise them. It is important, therefore, to remember that the two platforms are wholly different. Racialism apart, the British Indian is willing to vest the headship of the State with even autocratic powers, just as Gandhiji was dowered with dictatorial authority at the Ahmedabad Congress. A Viceroy chosen of the people, or commanding its confidence, will be willingly vested with immense authority, as in modern democracies, the head of the State or Government, like the American President or the British Prime Minister is gifted with large reserves of power. The rulers of Indian India should be similarly made to understand that Constitutional Reform does not mean wresting of power from them but enthroning and strengthening it on the active good-will of their subjects. And such strengthening is vital to their own real interests. Nor is it difficult to achieve. For there is no such real conflict of interests between ruler and subject as divide similar classes in other parts of India. No cleavage of race divides them: no bar of social habit or alienness of tradition comes between them. Even where the ruler and the ruled belong to different communities, as in the case of the Musalman Nizam, the Maratha Gaekwad or the Dogra Maharaja of Kashmir, their differences from their subjects are infinitesimal compared to the alienness of British rule in the Indian provinces.

3. The conditions are favourable to the growth of Constitutional Reform in Baroda. The general level of education amongst the people is fairly high. If it is not so high as in British Gujarat, it is higher than in other

parts of Bombay and much higher than the general level of India. It is true that the State educational authorities have concentrated on primary education with the result that the literacy-pyramid has a wide basis but a low height. But, at any rate, there is the material for the beginnings of a democratic electorate, educated sufficiently for representative institutions. There is also a net-work of popular institutions, beginning with the Gram Panchayat and ending with the Dhara Sabha. The avenues of approach to the authorities are many and intimate. The idea of associating distinguished non-officials with the work of administration, although so far only in an advisory capacity, has been familiar to the Baroda public for many years. And now, for some time, many of the powers of the Huzur have devolved upon an Administrative Council which has become an integral part of the constitution, with a legal status and clearly defined powers. The bulk of administrative work does not now need to reach the Huzur. Powers are defined and graded in tabulates which in precision and clearness defy comparison with any other power-schedule in the world. Here is a state of things on which responsible government could be introduced and perfected in Baroda without those terrifying consequences which have beset Dyarchy in British India. Dyarchy has divided the work in British provinces between members and ministers according to subject-matter and has thereby through the interrelation of interests laid the door open for endless friction. If responsibility were introduced into all the spheres of the provincial administration by successive doses of transfer of power, it is my firm belief that the Reforms would have worked with far less friction than they have done under Dyarchy. It is, therefore, possible to devise a system of responsible government with the Council at its top and introduce it by stages through successive transfers of power to popularly elected representatives of the Baroda Legislature; and in this regard, the power tabulates—Adhikar patrahs—of the Heads of Departments, the individual ministers and of the Council will serve as invaluable aids. Lastly, another condition which augurs well for the smooth introduction of constitutional changes is the attitude of the people. It is true that of late years, the public criticism of the administration, through the Press, the Praja Mandal and the Dhara Sabha has been increasingly adopting the rancorous methods of non-

official critics in British India. But happily as yet the relations between the official and non-official classes are generally very friendly and even cordial. No virus of non-cooperation has yet poisoned to any material extent the wells of public effort. And throughout, the most significant fact of the present political situation is the enthusiastic devotion with which the person of the Maharaja is regarded. There is no doubt that if His Highness took advantage of this most valuable asset and decreed a popular constitution, his life-work—which is the making of New Baroda—will have reached its climax and its crown.

4. While considering the stages, it is important to have clearly in view the Constitution aimed at. In these

Present state of things in Baroda.

articles, an attempt will be made to sketch in the briefest outline such a constitution, indicating also the ways by which it can be introduced gradually into the existing system. The present state of things may be briefly summarised. Under the Huzur, there are a Dewan, and other Ministers with co-ordinate powers, who form the Executive Council to which are called sometimes two other Senior Heads of Departments such as the Accountant General, or the Nyaya Mantri (Legal Remembrancer). This Council exercises all the normal Huzur powers in the administration with exception of certain very important cases which are reserved for the personal powers of the Huzur. These personal powers of the Huzur are, in their turn, normally exercised on the opinion of the Council. In regard to the judicial prerogatives of the Sovereign, there is a Nyaya Sabha—a small judicial committee of high law officers, the Chief Secretary to His Highness and one or two distinguished non-officials, mostly retired officers of the rank of High Court judges. The Executive Council has a large office where the matter coming up to Government are divided under their respective subject heads and scrutinised by responsible assistants. Apart from the Council, the individual ministers dividing the portfolios between them exercise certain minor powers of government, in respect of their charges, which are known as Dewan powers. The Naib Dewan exercises what are known as minor Dewan's powers. Below the Government are the Heads of Departments—the Sar Suba (Revenue Commissioner), the Vidyadhikari, the Accountant General, the

Senapati, the Chief Engineer and so on. All these officials are not only executive and inspecting authorities, but as Secretaries to Government in their respective departments, they normally initiate proposals affecting the well-being of the State. As to legislation, the bulk of drafting work is attended to by the Office of the Nyaya Mantri, who keeps in touch with the latest changes in British India and other parts of the world. There is a Dhara Sabha of 26 members, who besides the official Dewan-President, four ex-officio members and six other officials comprise 10 members elected, one each from the ten Vibhags (sub-districts) of the State, and five nominated members representing such interests as the Sardars, the Gaekwad Mandali, the City-trading interests and also the Depressed community. This Dhara Sabha is allowed to interpellate and divide on resolutions, which, however, are not binding. It votes on legislation, such as are referred to them for opinion, but its votes are not binding. Again all laws are not referred to it; in fact some of the most significant changes have been carried into law, without its cognizance, or in spite of its adverse vote. The Budget has now recently been made public and thrown open to debate in the Dhara Sabha, but no division takes place, nor need any criticism be heeded at all. Altogether these popular elements in the present constitution are the least worthy feature of the Sayajirao regime. But for this state of things, not the regime, but the lack of public spirit in the State itself, is primarily responsible. The type of person, with just a few honourable exceptions, that is usually elected is far from being the best available in the State. Most of them are excellent people in their own way—bigland-holding persons of "influence," if not of weight, but under decent conditions of parliamentary government they would not have functioned in the Dhara Sabha and rather have found an outlet for their usefulness in the District Councils or Municipalities. Most of them are uneducated in any decent sense of education. While the advice of only two or three deserves consideration, there is no nucleus of talent at present, from which the Huzur can form a stable ministry.

Proposed Constitution of the Legislature

5. The reform of the Dhara Sabha, therefore, is an essential preliminary to any thought about extension

General requirements
of a law-making body.

of its powers. Under its present mode of election, the Vibhag representatives only represent agrarian interests and that too, on an infinitesimal franchise—the electorate choosing them being the members of the Sthanik Panchayats. The large towns escape representation. Besides, a law-making body requires first and foremost the assistance of trained lawyers. A certain high standard of education must, therefore, be insisted on at least in the first ten or twenty years of the New Era, so that only persons of the best type can find an entrance to the legislature. The better type of the Vakils—LL. Bs. and High Court Pleaders—should be attracted to its portals. At present they are too busy with their clients to think of the Dhara Sabha. The local college sends out on an average about a hundred graduates a year. Some of these seek the ranks of State service, others go on to law, a few stick to land, but the great majority, it must be said, drift to Bombay, that city of opportunity, which attracts so much talent from the mofussil. The residential qualification should be, therefore, so relaxed as to enable graduates who are normally resident outside the State, but who are its *bona fide* natives, to stand as candidates. The normal standard required of a candidate should be the possession of a degree or some such qualifications as the High Court Pleader's examination which may be accepted as equivalents. As to age, the candidates should be at least thirty years in age. In exceptional cases as in regard to members representing backward or depressed classes such as Mussalmans, Antyajias or the Kaliparaj, the above qualification may be modified a little, or even dispensed with. But it should be insisted on for the Urban and Vibhag constituencies. Apart from this requisite, the franchise may be devised as broadly as is possible under present circumstances. I propose that the Dhara Sabha should be expanded under these conditions and renamed the State Assembly or

the Raj Panchayat. It should be the ordinary machinery for law-making but for special legislation and under extraordinary circumstances to be detailed below, there should be an Upper chamber—which we may call Pravin Mandal—whose constitution and functions I shall later describe.

6. The Assembly should be a wholly non-official body, with the exception of the Chief Minister as President, the Nyaya Mantri, the Accountant General and its Secretary. The other officials, if nominated at all to serve, should only be on an advisory basis, without the power to vote except in select committees, where their expert advice and guidance in their matter of drafting legislation are of advantage. The ideal should be worked up to an elected President, but for the first 10 years of the new constitution, there should be an official President as at present. The House should not be over large. For a population of 21 lacs, a membership of more than 33, besides the President, is not desirable. A larger body will be unwieldy and will always have its tail of absentees, and the State besides will have the needless expense of travelling and halting allowances, etc. The elected members of the Assembly should have the following categories :—

| | | |
|-----|---|---|
| I | One representative for each Vibhag, | 10 Members. |
| II | Three representatives of the City of Baroda, directly elected | 3 including one seat reserved for Mussal- mans. |
| III | One representative each of the seven large towns of the State—Patan, Navsari, Amreli, Petlad, Dabhoi, Sidhpur and Mehsana—directly elected | 7 |
| IV | Five representatives from the Sanadi pleaders of each Prant and City of Baroda. | 5 |
| V | Two representatives from the Sardars' constituency | 2 |
| VI | One representative from the Gaekwad Mandali... | 1 |

Finally, there should be a nominated representative each for the Kaliparaj and the Antyaj communities. Thus the non-officials should number 30 in a house of 33. If the Sardars' and Gaekwad Mandali constituencies cannot be immediately formed, candidates should be selected by nomination from among these groups. The Kaliparaj and Antyaj members need not themselves belong to these communities, but workers who have identified themselves in their welfare may be chosen. The life of each member of the Assembly will be for five years. The status of members of the Assembly, except those who have accepted office as mentioned below, may be that of Naib Subas. Lastly, there should be no sex-bar for candidates for election.

7. It will be seen that in these proposals, provision has been made for the special representation of minorities and here the principle of reservation for the City of Baroda has been adopted with the proviso that Mussalman candidates will be allowed to stand in the general (Vibhag, Urban and Lawyers') constituencies. It is expected by these means that at least three or four Mussalmans will be secured for the legislature. Mussalmans form less than 8 per cent. of the total population, so that their interests cannot be said to have been under-represented. The voting in the general constituencies should be on as broad a basis as is practicable. The Vibhag constituencies should for the present be elected by the Village Panchayats. There are nearly 2,000 of these in the Raj, with a membership of between 5 to 9 in each. Thus there will be an electorate numbering about 14,000 to start with for these seats. The urban seats should be on a broad democratic franchise—all literates, irrespective of sex, 20 years of age and above should have a vote; and all others who though not literate are Khatedars owning 5 bighas and over or are owners of houses or are tenants paying Rs. 36 per year. There should be a separate electoral roll for each of the seven urban constituencies and a common one for the three seats of the Baroda City. The expenses for elections, preparation of electoral rolls, etc., should be borne regarding Vibhag constituencies by the District Local Boards, and regarding towns by the Municipalities of the enfranchised towns. Thus the burden of elections should fall on local rates. The urban franchise may, when

Principles involved in the proposed personnel: their value.

the constitution is fully developed, extend to the Vibhag constituencies. The special lawyers' seats should include all practising lawyers in the Electoral rolls, which should be prepared by Government for each of the four Prants and the City of Baroda. On the whole, the general urban constituencies should have 74,510 literates (on the figures of the last Census) besides roughly 20,000 others who come under the other categories. If the Urban franchise is adopted for the whole State, there will be at least 1,72,074 literates, and another hundred thousand from the other classes or nearly three lacs in all. I do not recommend this extension at the first stage of reforms. With the increase of literacy, it is expected that few Khatedars or householders of the requisite standard will be out of the literate fold, and the literacy test will remain practically the only qualification.

III

Proposed Powers of the Assembly

8. In the preceding article suggestions are made with a view to secure a representative and efficient law-making body. But efficiency will not be attracted if adequate powers are not given to the Assembly. The present situation is painful. The authorities are not willing to extend the powers of the Dhara Sabha, because hitherto its present constitution has not evoked the best men to come forward for public work; and the best trained talent of the Raj has hitherto disdained a public career in view of the unattractiveness of the Dhara Sabha's impotence. The question of powers, therefore, assumes an urgency which cannot be long delayed. With the safeguards above outlined, it is hoped that a stronger and more highly educated body of men (and let us hope women) will be secured for work on the legislature. The ideal should be that just as there are now responsible heads of the Administration recruited from the permanent service advising His Highness and exercising the ordinary powers of Government, individually or in Council in regard to matters relating to their portfolios, in the same way representatives from the legislature chosen by the Sovereign from among the leaders of the legislature, should similarly conduct the administration. The reserved powers

of the Huzur will remain inviolable : if need be, they may be contracted or expanded at his will and the opportunities for initiating proposals or lines of policy should, of course, remain unaffected as at present. The popular ministers will derive their support from the legislature as also depend on the continued goodwill of the Huzur. When the Assembly refuses confidence or to vote supplies, they will have either to resign or to advise dissolution as is the case in usual constitutional practice. The only difference will be that they will not resign or be called upon to do so, if and when their advice to the Sovereign is not accepted or their orders are overruled by the same authority. Action of the Huzur in all such matters should never be made a constitutional issue. The aim of this paper is to set up an ideal of constitutional absolutism founded on the rule of law and guided by the wisdom of chosen ministers. This system may be called *Sachivayatta tantra*, after the fashion of *Mudra Rakshasa*. Modern Europe is now beginning to have a saner view of Parliamentary institutions and coming more or less to the same stand-point. Behind the " ostensible world " of democratic institutions, most people are content to leave the whole normal machinery of power to a picked aristocracy of talent. Above all, the personal influence of the Monarchy on the British Constitution is now coming to be recognised much more than ever before.

(a) Legislation

9. We shall presently see in what way the Central Government is to be reconstituted, but in the meanwhile, it is understood that the reformed Legislature should, as soon as the changes take effect, have complete power of law-making. All making of law, as apart from Rules, should be initiated, either through the State Assembly, or the Pravin Mandal hereinafter described. All ordinary laws should pass through the Assembly and then be submitted, unless subjected to the special procedure to be noticed presently, to the Huzur's assent. But a distinction should be made between ordinary laws and organic laws. Such laws as affect the constitution, make large changes in revenue or have reference to the special social

Law-Making powers :
" Organic " laws.

legislation of the Sayaji Rao regime should be considered *Organic laws* and cannot be subjected to any amendment by the ordinary process in the Assembly. It is necessary to protect certain things from the gusts of popular upheaval. Such a thing as the Compulsory Education Law, Civil Marriage Act, Infant Marriage Regulation, Widow Remarriage Act, Hindu Purohit Act, Kaliparaj Land Act, etc., represent the enlightened ideals of the present regime and these should be protected from any violent changes. The Act embodying the Constitution proposed in these articles, should be similarly part of the Organic Laws. No change in such legislation can be allowed to be introduced except on the three-fourths requisition of the Assembly, after which it must be passed through the majority of the District Panchayats, before it can be finally considered in the Assembly, where it must pass with a three-fourths majority. Even after such an ordeal it has to pass through yet another viz. the special procedure to be detailed below, before it requires the assent of the Huzur. There is nothing startling in these proposals. Special safeguards for the protection of Organic laws are a very well-known feature of the American constitution.

(b) Control of the Central Government

10. Though the law-making powers may be at once conferred on the legislature, as soon as the Reforms Law is enacted, in regard to the Central Government there should have to be a transition stage, in which powers will have to be gradually conferred, as the constitution is more fully developed. The ideal should be a body of Ministers with the Mukhya Mantri or the Chief Minister; with him there may be, associated two other ministers, who may be called on the analogy of the existing staff at the Central Office, Parliamentary assistants to the Minister or Lokadnya Mantri Madadnish. The Chief Minister should have a status and salary above that of the Chief Justice and the Parliamentary Assistants will be of the rank of the Suba. When the Constitution is in full working, all these three will be chosen from either section

Control of the Executive : in the Transition Period.

of the Legislature. The present posts of Amatya, Naib Dewan, Huzur Kamdar and at least two of the Assistants in the Central Office will have to be abolished on the introduction of the Reforms. The Chief Minister or Mantri will continue in the transition stage to be an official for at least the first decade and for such length of time after its expiry as the success or otherwise of the working of the new changes may determine. The two Assistants may, however, be at once appointed with the introduction of the Reforms. The Chief Minister (Mukhya Mantri) and the Parliamentary Assistants will divide the portfolios between them, more or less in the manner that the departments are at present sectionised in the Central Office. The Chief Minister should have, however, few departments in his charge as his main work will be to deal with the Legislature, superintend the work of the Assistants and deal in important matters from all departments, which come within the full Dewan powers or relate to more than one portfolio. For the first ten years, he will preside over the Assembly. Of course, the Khangi or Household Department will be as now outside the purview of the State administration; and such departments, as the Army where the Senapati exercises Dewan powers, the Parliamentary Assistants will, for the present, exercise little or no voice. But he will scrutinise papers and the Legislature will have the power of examining and dividing on the Army budget, as on other heads of supply and expenditure. It is here that the difference from the dyarchical experiment is most marked. I propose that the elected non-officials should be at once initiated into all departments of the State. For the first ten years they should form a board with the respective Heads of Departments and in consultation with them exercise what are known as minor Dewan powers. Where the permanent official differs, he may have a right of suspending the Parliamentary Assistants' orders and referring to the Chief Minister or to the Officer called the Pradhan, to be described presently, for review. In the transition period, these parliamentary Assistants will attend the Executive Council, take part in its deliberations but have no votes. After the preparatory period they will exercise full Dewan powers and along with the Chief Minister (when he becomes

After the Transition Period.

a non-official), form the Cabinet whose joint decisions shall then have the force of what are now called Council powers.

11. Between the Legislature and its executive on the one hand, and the Huzur on the other, there will be a liaison officer, of the status and privileges of the present Dewanship, who may continue to be known as the Dewan or may be renamed Pradhan. He will be His Highness's Chief Adviser, in regard to the cases coming up under the special reserve powers of the Huzur, or in regard to the special vetoing prerogatives of the Sovereign. This Pradhan will have also general superintendence over the working of all Departments and will be the head of a permanent Huzur Enquiry Bureau, which will conduct periodical and systematic inquests of all offices in the State. All the Foreign Office correspondence should be conducted through him. In the constitution, absolute veto is reserved to the Huzur, but in order to spare the Sovereign its frequent exercise, the Pradhan shall have provided for in the proposed Reforms, important powers of review and supervision. In the transition period these powers will be all important. In the matter of legislation, all laws which are certified as organic by the Nyaya Mantri may, after passing the Assembly through the extraordinary process described above, be either suspended for a year, or referred by the Pradhan to the Upper Chamber, which is described below. He may also exercise this suspensory *Veto* on all other legislation, or on all votes of supplies, wherever such a course of action is necessary for the welfare of the State or of the Ruling House or in the interests of backward communities like the Kaliparaj or the Antyajas. In the transition period, he will have complete powers of review over the orders of the Assistants and exercise disciplinary powers over them, such as the Dewan does now over the Suba. He may always suspend the rulings and orders of the Chief Minister and refer to the Huzur for final decision. In the transition period, the Executive Council will continue with the Pradhan as President, the Chief Minister, the Nyaya Mantri, and the Accountant General as members. The Parliamentary Assistants as mentioned above, will attend during its existence, take part in the discussion, but not vote. When the Council is abolished and the

Cabinet is evolved, it will consist of the Chief Minister, the Assistants, the Nyaya Mantri and the Accountant General, the last two only being permanent officials.

IV

The Constitution of the Pravin Mandal

12. As mentioned already, for the purposes of ordinary legislation, the legislature is to be unicameral, the Assembly sufficing for that object. For all extraordinary legislation, such as the Pradhan marks for reference, I propose a second body of experienced men—something of the type of Elder Statesmen in Japan. I call this body “ Pravin Mandal ”. The maximum size of this second chamber need not be more than twenty-five. Its constitution should be as follows:—

| | | | | |
|---------|---|-----|------|----------|
| (i) | Five permanent Officials—Nyaya Mantri, Accountant General, Chief Justice, Sar Suba, and Senapati | ... | ... | 5 |
| (ii) | Distinguished retired Officials of the rank of the Suba and above-nominated by the Huzur | | | 3 |
| (iii) | Distinguished members or ex-members of the Dhara Sabha or State Assembly of at least 5 years standing: elected by the Assembly: five from the Prants and three from the chief towns | ... | ... | 8 |
| (iv) | Nominated Representatives of the Gaekwad Mandali | ... | ... | 2 |
| (v) | Nominated first class Sardars | ... | | 2 |
| (vi) | Eminent Outsiders whose advice is of high value in law and Administration | | upto | 5 |
| | | | | <hr/> 25 |

The Pradhan will be the President of this body. Its members should be at least forty years of age. They should be invested with all honour, each of them ranking with the Chief Minister. Its normal work will be done in Committees of which there may be three:—a Judicial Committee of three members and the Pradhan as President,

hearing appeals from the High Court and superseding the present Nyaya Sabha; a Departmental Appeals Committee similarly of 3 members taking the place of the present Khata Nihaya Adalat and presided over by one of a panel of Heads of Departments, who is not concerned with the matter in appeal; and thirdly a Legislative and Finance Committee with the Nyaya Mantri as Chairman, the Accountant General and a non-official member of the Mandal advising the Pradhan about the exercise of the suspensory veto about legislation. Its full convocation shall only be held whenever extraordinary legislation of the kind noted already is to be considered, or whenever the Huzur expressly desires a matter of urgent public importance to be considered. In view of the important functions proposed to be given under the reforms the status of the Accountant General and the Nyaya Mantri should be brought up to the level of the Chief Justice and the Sar Suba (Revenue Commissioner). We can rename the Accountant General, Artha Sachiv (Finance Minister) in view of his enhanced status in the new Constitution.

Other Powers of the Legislature

13. Coming to the powers that may be given to the Legislature, it is important to remember that the Budget

Powers of the two Houses
re: Budget.

is and of course will continue to be part of the reserved powers of the Huzur. All legislation, however, involving extra taxation should pass through the two Chambers before requiring the assent of the Huzur. All heads of expenditure will be votable in the Assembly, with the exception of the Khangi budget which will be a first charge on the Revenue. It is the sovereign's prerogative to earmark whatever sum is required for the maintenance of the Court and the Karkhanas. Hitherto a certain sum has never been exceeded, although the Civil List is subject to no legal or constitutional limitation. It will, however, be a significant beginning of the Reforms if they are accompanied by a declaration that the Civil List shall be fixed at a certain figure either permanently for the present reign or for a definite period, after which the Huzur may consult the Legislature (the two Chambers together) as to what should be the fixed amount in future.

Details of the Khangi budget shall never be, however, subject to discussion. All the heads of expenditure shall be votable. Budget procedure may be simplified by the system of block grants on the basis of five year Settlements, after which supplementary demands can only be considered on a certificate of the Finance Committee of the Pravin Mandal. This Committee will also scrutinise the budget before finally placing it before the Legislature. The Budget should pass both Houses; in matters of expenditure, both houses claiming equality, while in regard to new taxation, the will of the Assembly shall prevail over that of the Pravin Mandal; whenever a certain tax bill is passed or refused twice in the course of a year by the Assembly, the matter will be referred to the Huzur without any further intervention of the Upper Chamber. In regard to Public Works, the budget should be divided into (i) *Huzur Works*, relating to the City, Khangi, Railways, and Irrigation and (ii) *Ordinary Public Works*, the budget for which will be by Prants and considered and passed by the Prant Panchayats. The Huzur Works will be scrutinised by the Finance Committee and, with the exception of Khangi works, will be votable in the Legislature. The Prant budgets will be framed on the basis of the block grants allowed by the Legislature, by the Chief Engineer in consultation with the Suba and the Prant Engineer and submitted to the Prant Panchayats. All ordinary Public Works in the Prants should be transferred to the District Boards (Prant Panchayats) and the District Public Works establishments should, therefore, be reduced, except such as are required for the Huzur Works.

14. When these important powers are detailed, the other powers proposed for the Legislature need not detain us. Both Houses may interpellate, ask supplementary questions and move resolutions which shall be binding on the Ministry subject, of course, to the Huzur Veto or the Pradhan's Suspensory Powers. There need not be any large categories of exclusion regarding the subject-matter of resolutions. Relations with the British Government and matters, relating to the Khangi may be ordinarily excluded, but all matters affecting the internal affairs of the State may be touched upon. Both Houses may be allowed to hear public petitions relating to legislation

Other Miscellaneous Powers.

before them. All members of the legislature will have right of private audience with His Highness. As part of the further training of elected members in the working of State departments I may suggest that honorary *attaches* may be selected by the Assembly and placed under the charge of the Heads of Departments for being put through the different stages of the work just as Huzur probationers are trained through the different grades.

V.

Probable Consequences of these Changes

15. Certain immediate results may be at once frankly stated.

Certain amount of inefficiency and friction inevitable. The inexperience of the new Parliamentary Assistants may at first react on efficiency in the beginning. The Senior Heads of Departments may resent their interference. Differences of opinion may lead to occasions of acute friction. Frequent overrulings by the Pradhan may lead to a certain attitude of "rawness," if not of hostility towards the permanent officials. On the other hand, the permanent officials themselves will find in the Reforms a deprivation of their legitimate prospects. The abolition of certain high posts in the Government which is proposed as part of the introduction of Reforms may lead to serious dissatisfaction in the service. Already the competition with British India where Indian officials have been granted handsome increments as a sop to induce them to acquiesce in the large doles granted to European employees, has had disastrous consequences on the moral of our State service. No longer good men are being attracted to the Baroda service. The question will have to be seriously considered whether the service conditions should not be further improved as part of the Reforms. The usual attitude of non-official Baroda towards this matter is that of unintelligent hostility. But when facts are carefully presented I have no doubt that they will be duly appreciated.

16. Further the machinery proposed for extraordinary legislation and the provisions regarding suspensory veto, etc., may mean delay in the disposal of business. But law-making is a very serious

Delay in procedure as a necessary safe-guard.

matter and we cannot make a fetish of despatch in this regard. Delay in legislation is necessary, but, on the other hand, the development of the Central Office with these popular elements may obviate the necessity of intervention of certain intermediate offices. Thus certain branches of the Vidyadhikari and Sar Suba Offices may be done away with so that the ordinary business relating to their departments may be expedited. The transition stage proposed here and as found in British India at present, is always the most difficult time for constitutional development. These difficulties may be surmounted with tact and firmness, and a resolute faith in the ultimate triumph of the cause. If His Highness is persuaded to adopt a bold policy of enlightened political reform, such as I have ventured to sketch in these pages, I am confident his efforts will be seconded by all his officials and subjects with right good-will.

17. At any rate, the difficulties that are possible are nothing like the consequences that have clogged

Reforms outlined here
better than British Indian
Dyarchy.

dyarchy. There is no attempt in these proposals to create an official *bloc*, deliberately working against the popularly elected ministry in the Legislature. There is no attempt at reserving of subjects—non-officials being welcomed in all departments. There is no attempt at starving of nation-building departments, such as is alleged in the British Indian Provinces. Finance is the hidden rock on which the ship of constitutional reform in British India is threatened with wreckage. Here in Baroda, finance is the bed-rock on which the proposed changes hope to succeed. The proposals do not involve any additional expenditure; on the contrary, there is likelihood of a large saving in the Central administration on the present scale of expenditure. Even if we exclude the Amatya's post as being a wholly exceptional one, in his place, there was always a Revenue Naib Dewan. Against the creation of a Chief Minister and two Parliamentary Assistants, there will be the abolition of the posts of Amatya (or that of the Mulki Naib Dewan), Huzur Kamdar, Naib Dewan and the present Assistants to the Ministers. An extended Assembly may perhaps cost more in travelling and haltage allowances, etc., but this can be met from further economies in the minor establishments of the Raj. The expenses

of the Returning Officers about preparation of electoral rolls, voters' tickets, etc., will as indicated above be largely met from the local rates.

18. One other consequence on the formation of the parties can only be foreshadowed. At present there is not much indication of the growth of the parties in the State. There is, however, a moderate element occasionally making itself felt when the more vocal representatives of the Praja Mandal render themselves obstreperous. Whether the proposed changes will evoke the formation of stable parties, we cannot say. But the present-day ruling conditions in the rest of the world make for little groups rather than well drilled parties. The first stages of the Reforms will have to be, for as long as one can predict, on the basis of non-recognition of parties. The first ministries will have to be selected from among the ablest in the two branches of the Legislature. Under present-day Indian conditions, only such parties as veer round persons, or part along lines of religious or communal cleavage, can be called live; and these have such a habit of splitting into groups and sub-groups, that it is best for the constitutionalist, wishful of the true welfare of Baroda, to discourage sternly the formation of further fissiparous divisions among the community.

19. Yet another consequence of these changes will be their reaction on Local Self-Government. Certain consequential changes will have to be undertaken. The Sudhrais (Municipalities) should be further democratised and "de-officialised" with their own elected Presidents. Such Vishista Panchayats as are capable and well managed with a decent revenue should be levelled up to the rank of Sudhrais and given the same constitution. The other Vishista Panchayats should be reduced to the level of ordinary Village Panchayats. The Patelship of villages which is nominated in certain parts of the State and oligarchic in other parts should be gradually made elective, and these elected Patels should become ex-officio Presidents of Gam Panchayats. I do not favour the idea of separating the Patelship from the headship of the village elective organisation,—which is favoured in certain quarters.

20. Similarly, I am not in favour of removing the Suba and the Naib Suba from the headship of the District and the Taluka boards respectively.

The district Executive and Local Self-Government.

The powers of these institutions should be increased and interference in their affairs should be reduced to a minimum. But the local representatives of the Government should not be removed from direct touch with these institutions. The idea of having non-official chairman of District and Taluka Councils is borrowed from British India, where in its turn the example of English County Councils has been sought to be followed. But the whole conception of District administration in India is different from that of England. If an analogy is to be followed, the Subas and Naib Subas correspond to the Prefects and Sub Prefects of the French system. There these functionaries preside over their respective *Conseils generaux* and *Conseils d'arrondissements*. The District executive in India generally, and in this State also, undertakes responsibilities on behalf of the State, in many directions not contemplated by the ordinary State machinery in County administration in England. It offers a magnificent training ground of which the English Civil Service in India has not been slow to take advantage. Such training should not be denied to our officials. As I am opposed to the Patelship being separated from the headship of the Village Panchayats so am I opposed to running a parallel organisation of Sthanik Panchayats with their elected chiefs on the one hand, to the State machinery of the Subas and Naib Subas. The most immediate need of the people are attended to by the local authorities, and in that regard, nothing can be more suicidal to the interests of the people than the idea of any possible opposition of interests between the State and the people, that such a bifurcation of arrangements may, and will inevitably, involve.

21. These local Councils should, therefore, continue to function more and more as the local officers' administrative cabinets. To these Councils may be transferred gradually the Control of all ordinary district public works, of all primary schools, and hospitals and all local agencies for Sanitation, Agricultural

Proposed Extension of functions of District Boards.

credit and improvement, so that there will be Panchayat Engineer, a Panchayat Director of Education, a Panchayat Officer of Public Health and Sanitation and a Panchayat Officer for Agricultural improvements. For these objects, not only will the State budget for these departments have to be allocated but also new sources of revenue will have to be found by these local bodies. The Municipalities will have to be made to shoulder responsibilities similarly for Sanitation, Medical relief and Education. Where these bodies are unwilling or indifferent to these vital responsibilities, power should be taken by legislation to coerce them to shoulder them.

VI

Conclusion

22. A volume can be written on the possibilities of development, but my purpose in these articles has been only to initiate discussion. I have little doubt that my suggested lines of advance will provoke animated, if not angry criticism. But I have the consolation to think that I have laid bare the aims I have in view. I have no mental reservations in this regard. My object is fully and frankly to evolve as completely as Indian conditions will allow, an intelligible scheme of constitutional Government wherein the powers of the people can be reconciled with the principle of an absolute Sovereign, the idea being that the people's will should *guide*, not *govern*, the ruling authority. Such a reconciliation is possible. History offers ample evidence of its success. Under other names and other devices, it is enshrined in the American Constitution. It exists, frankly and without reservations in the Japanese system. It existed before the war, in the Imperial system of Germany. England herself, the mother of Parliamentary Sovereignty, is now going back on the idea, and seeking means, through Cabinet Secretariates, Coalitions, business ministries and the like, to hedge it round with limitations. Mussolini and the present revolution in Spain are no mere flashes in the pan of European politics: they are sure symptoms of the coming change. And nearer home, in our old India, where lie imbedded in the rocks of her immemorial history the most diverse forms of political belief,

Outlined Constitution :—
Constitutional Absolution.

the Kautilian State, as recorded in the Artha Sastra, reveals the conception of an absolute monarchy tempered by the wisdom of the nation.

23. I have already stated the reasons why I have selected

Baroda for the proposed constitutional experiment.

Indian Princes should rise above their environment.

I may add here that I happen to be intimately acquainted with its working. I

may not state how intimately, for I do not

wish the public at this stage to know my identity. But my proposals for Baroda have, I venture to think, a significance for other States also. I present them to Indian Princes—to the best of them who are enlightened enough to feel the necessity of change. The bulk of them suffer from the utterly false view which has been sedulously dinned into their ears that Orientalism is necessarily opposed to constitutionalism or the rule of law. They must be told that such autocracy as has at times disfigured Indian history is foreign to the Indian tradition. It is part of the Semite legacy which the Scythian inroads had left to us and the Moghals perfected; it is part of that decadent Greek tradition, which the Alexandrine invasion left behind in its trail. But it is unknown to the Indian epics; it would have been repugnant to the democracies of the Buddhist age; and even in the centralised monarchy of Chandra Gupta or Asoka, it found no place. The Indian Princes should, therefore, turn aside from all these things that deter—the surge of ancestral pride, the dark pull of vicious teaching, the evil advice of counsellors—to the pristine ideal of “Prajā Vallabh Raja,” which is the heritage of Aryan India.

24. Finally, proposals for Constitutional Reform in Baroda

cannot fail to be of interest to its august

Appeal to His Highness the Gaekwad.

Ruler. Reuter's *maladroit* attempt on his

life has most happily failed, to the intense

relief not only of all his subjects, but also of countless multitudes who though not his subjects look upon him as one of the makers of Modern India. But that attempt does serve to remind that States and Institutions have greater length of days than mortal men. It does serve also to give point to the vital necessity of setting up a stable

popular constitution whereby to conserve and consolidate that forty years' record of effort and achievement which will be ever associated with His Highness's undying name.

Indicus Semper

Navsari, September, 1923.
